MT LEGISLATIVE HISTORY

Chapter 81 1963

Bill (H) 55 S _____ Original bill & hist. ___C

H. Committee on Judiciary

Hearing Date(s) Jan 15 ✓C
Jan 25 ___C
Jan 26 ___C
_____ ___C

Date Out _____ ___C

S. Committee on Judiciary

Hearing Date(s) Feb 4 ✓C
Feb 8 ✓C
Feb 11 ✓C
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Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

January 15, 1963

JUDICIARY COMMITTEE

The House Judiciary Committee met in the Committee Roo at 10:00 a.m. on Tuesday, January 15, 1963. Chairman Haughey presided.

Upon call of the roll all members were present with the exception of Rep. Keller.

House Bill No. 3 was first for discussion. Rep. Turnage discussed this bill for the committee as he explained that it allowed a more perpetuating feature for people who want to establish a trust. He also stated that the same bill came up two years ago and was passed in the House but not the Senate. This brought up the question: How much would it cost the state? He stated that it would cost the state nothing because they aren't getting it now. Conclusion of the Committee also included the fact that we are losing money, although not necessarily tax money. A motion was made by Turnage and seconded by Hemstad that this bill Do Pass. Upon further discussion by the Committee the motion was withdrawn and the bill was taken by Dykstra for consideration of a possible substitute bill.

House Bill No. 38 was next considered. This bill had been worked on by Keller and Turnage. Turnage reported on the amendment they had proposed and gave necessary definitions pertinent to the understanding of the Committee. It was moved and seconded by Murray and Dykstra that this bill Do Pass. Motion Carried.

House Bill No. 42--it was suggested that this bill be rewritten in the form of a substitute bill. Such motion was made by Murray and seconded by Dykstra.

House Bill No. 55 with regard to Indian Jurisdiction was introduced to the Committee for discussion. Rep. Turnage felt strongly about this bill and discussed for the Committee his hearty reasons. He stated that this bill was passed by the House last session. It went to the Senate and did not pass there. He further pointed out that this type of legislation is desired by the tribal council. In favor of such action, they have written into their code that the tribe shall cooperate. The bill does not force upon the reservations state jurisdiction without their consent. There is a good report issued by the Bureau of Indian Affairs. It is a study made available by the department and points out the real need for this type of legislation. With regard to the need for this bill, Lake County has been an "open" county many years. Also, there are about ten non-Indians to one Indian on the reservation. Without authority in the

exercise law and order, they experience almost complete breakdown of law and order. Until 1950 the state authorities had been assuming complete jurisdiction. Taking away this jurisdiction has resulted in many miscarriages of justice. In taking such action on this bill it was further emphasized that it is not taking anything away from the Indians as it stipulates the requirement of their consent. If they don't want it, they needn't bring themselves within the scope. When asked how much it would cost the state, Turnage said it would cost virtually nothing because the state authorities now working would suffice. As far as Lake County is concerned, it will be no extra burden. Murray then said that the bill was killed in the Senate last session because it was not followed through by a Representative from the House and Senator Mahoney took the opportunity to state that it would cost the state a lot of money. Upon summary, a motion was made by Turnage and seconded by Murray that House Bill No. 55 Do PASS. Motion carried.

House Bill No. 71 will be held as it pertained to open meetings and another similar bill is expected.

House Bill No. 16 as reported by McNamer will be further delayed for work being done on this bill.

Meeting adjourned.

James M. Haughey, Chairman

January 25, 1963

JUDICIARY COMMITTEE

Meeting of the House Judiciary Committee convened at 9:00 a.m. in the Supreme Court for the purpose of hearing representatives of tribes interested in House Bill No. 55. Chairman Haughey presided. Rep. McNamer was excused from the meeting.

Rep. Turnage first took the floor to remind the Committee that the bill had at one time been in the Committee and was reported out. It was referred back to the Committee to give the interested tribes a chance to have a say in the matter. It provides, on the consent basis, for the assumption of civil and criminal jurisdiction in Montana.

Tribes present at the meeting included Flathead Reservation representative, Mr. Steve Demures; Fort Peck Reservation, Assiniboine and Sioux representative, Mr. Leslie Fourstar; Fort Belknap representative, Mr. Richard King; Blackfeet representative, Mr. Walter Wetzel; Northern Cheyenne representative, Mr. John Woodenleg; Crow representative, Mr. A. Whiteman; and Rockyboy representative, Mr. Theodore Lamere.

Freda Beasley, representing the bill in the interest of the State Board of Indian Affairs, and the Fort Peck Indians, made the following statements as a proponent of House Bill 55. "I am an allotted member of the Fort Peck tribes. I have assisted coordination of Indian Affairs under Mr. Bergum. I am a property owner on the Fort Peck Reservation consisting of both grazing land and farm land. Some of this land is in trust status but the majority is in status causing me to be a taxpayer.

Over the years I have observed and have had to live under tribal law and order. That type of administrative law and order set up by the Bureau of Indian Affairs and the tribes. I find many inequities. I say without any reservations that I was the one who drafted HB 298 last session. It has been in my mind since that the people went down to defeat in the Senate of Montana Legislature. I again have reason to be interested in the passage of this bill. I have a letter here from a very successful man on Fort Peck Reservation." The letter was read and presented to the Committee to be filed on record. The letter is signed David C. Smith, Poplar, Montana.

"I also have the Preamble to the Constitution of the Northwest Affliliated Tribes. Every tribe in the State of Montana is bound or should be bound by the same." This too, was read before the Committee and presented for record. "Under the present system of law and order, we are not getting the proper law and order that the State of Montana could afford us. We are also all members of the Inter-tribal Policy Board." Mrs. Beasley then read portions of the draft and stated that: "this indicates that when a reservation is applying for something, it behoves the rest not to interfere.

Mr. Steve Demures, proponent of the bill and representing the Flathead Tribe as an official delegate was allowed the next ten minutes for his statements.

"I am a member of the Flathead Tribe and allotted on that reservation and authorized to appear before the Committee and speak in support of House Bill No. 55. We would like to call attention of the Committee that there has been in effect a "no-man's land" as far as law and order are concerned. The Federal Government has limited itself to the ten major crimes and beyond that have done nothing. The state, counties, and others cannot assume jurisdiction and will not because they don't have legal authority. It has fallen on the Tribal Council to spend $30 to $40 thousand a year attempting to provide some semblance of law and order among its people. It is not our intention in presenting the bill and urging its passage that it inflict any harm on, or be of any deteriment to any other tribe in the state; but that it will protect the other tribes. It is, as we understand it, a consent bill. The tribes may elect to come under it. They need not elect to come under this bill."

"Montana, on our reservation, is crossed by two of the national highways, 10 and 93. We have problems of law and order with regard to highway patrol. Serious problems lie with our juvenile delinquents and there is no court to take them. Also, there are considerable problems with welfare matters. On the Flathead Reservation we urge that the bill be passed."

For the purpose of the record questions were directed to Mr. Demures.

Q. Are you acquainted with Mr. Henry Lozeau?
A. Yes, I am.

Q. Do you know if he is representing any agency or bodies?
A. He is not.

Q. Do you know Marlene Waylett?
A. She is Henry Lozeau's niece and lives in Missoula also. Nor does she have any connection with the authority of the tribe.

Q. Is there a Flathead Kootenai Organization?
A. Yes, but the membership is not as large as it is set

up to be or they would have a greater voting affect.

The telegram to which this questioning referred was received from the two mentioned therein and they proport to represent some authority of the tribe. The telegram was placed on file for the record.

Mr. Richard King was next to speak as representative of the Fort Belknap Community Council.

"Under the Reorganization Act we are operating and administering and handling our social problems and have our own self-government. We are not in favor of this because we have so many obstacles. We had a shooting scrape two or three years ago and went to the federal government and they told us they would send an F.B.I. man to investigate. They then said the evidence wasn't strong enough. We went to the county attorney of Blaine County. He said he didn't have authority on the Fort Belknap Reservation and could not interfere. Since we were under the Reorganization Act, we could set up our corps of defenses and have our own judge, etc; but this man was said to be a white man and an Indian didn't have jurisdiction over him. The federal government said he, the Indian judge, couldn't do anything to a white man because he wasn't a member of the tribe. He was intermarried and living on the reservation and would have to be thrown out of the tribe which would mean that his wife would likewise or it would be necessary to split them up. We thought that if this bill passed, we could have better coordination and protection.

"Other tribes have all kinds of tribal money to operate on. Our reservation has no tribal monies but are operating on a shoestring. our people asked us to get something fixed up so that if the same situation comes up, the county sheriff and attorney could come in and help solve the problem. We are helpless. Remarks have been made that this would interfere with our tribal rights. Instead, I think it would protect our economic welfare. I don't think it would interfere with tribal matters and freedom. Over half of the reservation is non-allotted because it was allotted prorata. The children thereafter didn't have land to be allotted to them. Many are over 1/4 Indian and the older allottees have about all died off.This has been a problem since this matter came up and it always happens. If I say I want this bill, probably when we put it through a referendum and we would like that privilege, although I am a proponent, when I get home my people might reject it but they will decide what is what because it is up to the majority of the people.

He said that a twelve-member council had passed a resolution to pass it over to the state. They said, however, that council members couldn't do that because they insist that the majority rules.

OPPONENTS to the bill included the Northern Cheyenne, Blackfeet, Assiniboine and Sioux, Chippewa and Cree.

Mr. Walter Wetzel, Chairman of the Blackfeet Tribe of the American Council of Indians, made the following statements.

"The national law needs to beamended to protect the tribes nationally." After mentioning HB 280, he stated that they do not come under the Reorganization Act.

"I feel that passage of this bill is another step towards termination. If this bill was to pass as it now stands, pressure groups could bring it up to a vote and apply jurisdiction. We do not like the word termination nor do we concur in such termination. We are trusted with law and order for our Indian people. I feel that the Indians have a special status and to give up rights would be to give up status. If we give up one right sooner or later we will lose our status. At present we have a system under tribal law and order where I don't think there is any criticism. We have an ordinance. We try in Indian court. As I stated last night, before a group, I cited certain things that we Indians have heard about." He then read passages from the 1961 Commission on Civil Rights report.

"I would like to state also that the New York Times indicated cases where Indians were flogged and beaten and even chained to beds, etc.." He mentioned that in opposition he was backed by 2700 others/not for it as compared to the other tribes before him of which he indicated only 5000. He stated that about 30,000 Indians are opposed. "Law and order is costly and we know that it would be a tremendous cost to the State of Montana. We are satisfied with the situation and I believe that we should not be forced to do anything.

"There are tribes that are opposed and just because some want it, they want to draw the others into this category. I feel that if HB 280 was amended then possibly something could be worked out for these other tribes."

Mr. John Woodenleg then appeared in behalf of the Northern Cheyenne Indians. "We are on the Reorganization Act. We have law and order. This is recognized by Rosebud County and Yellowstone County and they work along with us. The tribe seems to think that they are doing all right with the law and order and want to keep it that way."

Mr. Leslie Fourstar of the Assiniboine and Sioux tribe on the Fort Peck Reservation then represented Fort Peck tribes in a tribal official capacity.

"It was mentioned that the tribes might be a burden to the State of Montana. We set up our initial budget each year and that comes to about $50,000." He went on to give the figures he calculated to be the burden on Montana if the State were to assume such jurisdiction. "Each time there is a candidate running, they are advocating for a tax reduction and how can they keep it down if there is a burden of half a million dollars for law enforcement." He then mentioned action taken by the two Fort Peck tribes in passage of a resolution. This he read and submitted to the Committee for record.

Mr. Theodore Lamere then appeared representing the Rockyboy Indians. He said that he represented about 1500 people and nine members of the Council and Business Committee. "They are against it. I cut short because I think the others have covered it quite well."

Mr. A. Whiteman, Secretary of the Tribal Council for the Crow Tribe, was the last of the opponents to be heard. "I have a written statement of the Chairman of the Crow Tribal Council which is a statement as to my feelings and as to why I feel against the bill. Yesterday afternoon I met here in the Capitol with the Sheriff of Big Horn County and asked him what his thoughts were on the state jurisdiction bill; and at the same time I made a statement asking what position he would be in if the Crow Tribe should adopt such a bill. He said he would have to turn it down because Big Horn County isn't able to afford any additional expenses; being that the taxes are not going to be forth coming for personal expenses of such people. The thought that I am going to bring out here is the fact that the Bureau is furnishing us one Chief of Police and two officers with cars and expenses and they run order for us. At the same time we are appropriating $52,000 a year and the fines are being used right in the department. At any rate it would cost quite a lot just in our police force.

"At the same time it creates labor and we feel that if a law is passed, the Bureau will withdraw the monies that are being put out to help us with our police and at the same time we are now going to initiate a youth movement to create camps and the Bureau will furnish us instructors and money. Along that line we feel we can put out some sort of education for our juveniles." He concluded that if the Bureau can see an alternative avenue out for them, they will withdraw the money which would cause the tribes to become upset.

January 26, 1963

JUDICIARY COMMITTEE

Meeting of the House Judiciary Committee was held in the Committee Room today at 9:00 a.m., January 26. Chairman Haughey presided.

Upon call of the roll all members of the Committee were present with the exception of Rep. Lucas.

House Bill No. 55 was further discussed today and Rep. Turnage presented his suggested amendments to the bill. These amendments were decided on after much discussion with the tribes and it is the intention to remove some of the fears of the tribal groups who feel that they may be offended by the bill.

The first amendment, which requires specified consent before a proclamation can be issued, was needed because they feel they are being handed something they are not ready for.

The second amendment allowing withdrawal of consent to such jurisdiction by appropriate procedure was explained by Rep. Turnage as involved in the psychology with the Indian people and their tribes.

Rep. Turnage presented a mimeographed copy of a resolution drawn up by an attorney in Chicago, Mr. Sonosky, at the request of the Fort Peck tribe. Turnage indicated that there is hardly any truth in this resolution, and it assumes a lot of things. He then went on in a discussion with the Committee members in regard to substantiating his statement. Among other things, he stated that he had checked with Justice Harrison who, by the way, is very much in favor of this type of legislation.

Question was brought up by Bailey in regard to a statement made by Wetzel during the hearing to the effect that Montana isn't included under HB 280. This bill sets forth states that would have jurisdiction regardless of consent or consultation and as reported by Turnage, there have been no notable unhappy experiences. Further discussion was held as to whether such bill was actually limiting the Indians or protecting them by limiting the U.S. Government.

Rep. Keller then brought up an important point, stating that some of these people who are violently opposed to the bill don't even live on the reservation.

Further substantiating his statements, Turnage referred to a report from the State Welfare Department. This report indicates such facts as the 30 percent Indian population in the state, which population makes up 35 percent of the ADC case load. In December 611 Indian families were on ADC. The study shows that 69 percent of those Indian ADC cases were attributable to desertion, neglect, and abandonment, etc. There is no law to make these people face up to their responsibilities. The responsible few among them realize this cannot go on.

Turnage also reported having discussed the bill with Senator DeWolfe and he said that he would be in favor of supporting such a bill if something were put into the bill allowing them to get out.

Motion was made by Murray and seconded by Keller that House Bill No. 55 DO PASS AS AMENDED. Motion Carried.

The Civil Rules Commission bills were then discussed. Murray had looked over the bills and reported that they appeared okay. Motion was made by Murray and seconded by Turnage to introduce these two bills as Committee bills.

Jensen reported on the work done on HB 10,71, and 80. Of the three, it was recommended that HB 80 DO PASS. See copy of the sub-committee report. After a lengthy discussion, it was decided that several questions yet remained and it was advised that persons with questions should meet with the sub-committee.

A vote was called for on the amendments. As read by Jensen, Turnage made a motion to accept the first amendment in section 1; Bailey seconded the motion. Motion Carried. Motion was made by Murray and seconded by Turnage that the amendment in section 4 be adopted.

House Bill 183 and 184 regarding Workmens Compensation and allowing that counties can set up work groups for people on relief. It is required that they be covered by Workmens Compensation so that the county will not be responsible. The bill was referred to Rep. Bradford for a sub-committee report.

House Bill No. 199 regarding stolen property evidence was referred to Turnage and Lucas.

House Bill No. 203 was referred to Murray.

House Bills No. 215, 216, and 217 will be held until time when interested persons can be heard in regard to these bills involving the justices of the peace.

JUDICIARY COMMITTEE MEETING
February 4, 1963

The meeting was called to order by the Chairman. Roll was called and all members were present.

Senate Bill No. 169 was discussed by Senator McElwain. Senator Cumming made a motion and was seconded by Senator McGowan that Senate Bill No. 169 do pass. The motion was carried.

Mr. Patrick Hooks, an attorney representing the National Association of Independent Insurance; Mr. John Risken, an attorney representing the Casualty Surety Company; and Mr. George Barsfield, an attorney representing the American Mutual Insurance Alliance, appeared before the committee as opponents of Senate Bill No. 178. A brief outline of Mr. Hooks' objections to the bill is as follows: (1) would change the status quo; (2) would throw out the rules of negligence; and (3) would mean more statutes.

Representative J. A. Turnage appeared before the committee in behalf of House Bill No. 55. He spoke briefly on this bill and pointed out that a similar bill reached the Senate last session, but without two amendments that the present House Bill No. 55 contains. Also appearing before the committee in behalf of House Bill No. 55: Mr. Stephen C. DeMers, a member of the Flathead Tribe and former member of the Flathead Tribal Council and one of Montana's official delegates to the 18 Western States Governor's Interstate Indian Council; Mr. Leo Sias, a member of the Tribal Council of the Confederated Salish and Kootenai Tribes, Flathead Reservation; Mrs. Freda Beazley, a member of the Assiniboine Tribe of Fort Peck Reservation; and Mrs. Estelle Hughes, a member of the Fort Peck Reservation. A statement from Mr. Edward Belgard, President of the Montana Landless Indians Inc. and a delegate to the Montana Inter-Tribal Policy Board, was presented to the committee by Mr. DeMers. Also appearing in behalf of House Bill No. 55 was Mr. Alex B. Stephenson, Supervisor of the Montana State Highway Patrol. Also presented in behalf of the bill were the following telegrams addressed to the Chairman of the Judiciary Committee: Walter H. Morigeau, Chairman of the Confed[illegible] and Kootenai Tribal Council; Richard King, Chairman of

Council; and a letter from Richard B. Hughes, a member of the Fort ...servation. Another committee hearing on House Bill No. 55 is scheduled ...day, Feb. 8th.

A motion was made by Senator Dussault and seconded by Senator Gerard that Senate Bill No. 9 do not pass, but that Substitute Senate Bill No. 9 do pass. The motion was carried. Senator Huntley proposed the following amendment to Senate Bill No. 56: Amend Section 3 in line 11, page 3 of the original bill by striking the words "interested parties" and inserting in lieu thereof the words "the person treated or his legal representative." Senator Dussault made a motion and was seconded by Senator McDonnell that Senate Bill No. 56 as so amended do pass. The motion was carried.

Senator Huntley made a motion and was seconded by Senator Dussault that House Bill Nos. 25 and 27 be not concurred in. The motion was carried.

Senate Bill No. 178 was discussed by Senator Huntley. Senator Dussault made a motion and was seconded by Senator Cumming that consideration of Senate Bill No. 178 be passed. The motion was carried.

Senator Dussault made a motion and was seconded by Senator McGowan that Senate Bill No. 203 do not pass and that consideration of Senate Bill No. 201 be passed. The motion was carried.

Senator Gerard made a motion and was seconded by Senator Huntley that the meeting be adjourned.

Respectfully submitted,

Eugene F. Mahoney
Chairman

Patricia Dorrington

Patricia Dorrington, Secretary

...Y COMMITTEE MEETING
...ary 8, 1963

Chairman of the Executive Board of the Assiniboine and Sioux Tribes of the Fort Peck Reservation; a statement from Walter Wetzel, Chairman of the Blackfeet Tribe and a resolution from Edison Realbird, representing the Crow Indians. Mr. Cedor B. Aronow, an attorney from Shelby, Montana, also appeared before the committee against House Bill No. 55. Representative J. A. Turnage, Stephen DeMers and Alex B. Stephenson appeared before the committee for the second time in behalf of the bill. The committee decided to hold its report on this bill until a future date.

The meeting was adjourned.

Respectfully reported,

Eugene Mahoney
Chairman

Patricia Dorrington

Patricia Dorrington, Secretary

...ARY COMMITTEE MEETING
...uary 8, 1963

The meeting was called to order by the Chairman. All members were present except Senator McGowan and Senator Cumming.

Senator Cashmore appeared before the committee in behalf of Senate Bill No. 145. He informed the committee that he had been requested to introduce such a bill by many of the residents of this area. The primary purpose of the bill is to permit the person who receives the stamps to turn them in for cash or merchandise where they receive them or to go to the redemption center and get what they want. Appearing before the committee in opposition to the bill were the following: Mr. Henry Loble, an attorney representing the Gold Bond Stamp Company; Mr. Patrick Hooks, Mr. Jerome Anderson and Mr. John Gavin, attorneys representing the Sperry & Hutchinson Company; Mr. O'Keefe, an official of Sperry & Hutchinson Company; Mr. Ed Pepe, Mr. Pete Thompson and Mr. Paul Stewart, individual store owners. Mr. Loble acted as spokesman for the group. He referred to House Bill No. 442, which was passed in the 1961 Session and later found to be unconstitutional by District Judge W. W. Lessley of Bozeman and also by the Montana Supreme Court. He offered as evidence against this bill portions from a trial held in Helena. He presented the committee exhibits of the various types of coupons and other "gimmicks" used by the merchants in the sale of their merchandise. He also left with the committee a copy of a poll taken by different types of clubs and organizations. The conclusion of the poll was that the majority of the clubs think that the merchant and consumer should decide the issue of the trading stamps and not the legislature. Senator Cashmore requested that the committee amend his bill to the effect that the stamps shall be redeemed at 95% of their value instead of face value.

Mr. Marvin J. Sonosky, an attorney from Washington, D. C., appeared before the committee as spokesman for the Assiniboine and Sioux Tribes of the Fort Peck Reservation, in opposition to House Bill No. 55. A large ...up of indians appeared with him in opposition of this bill. Statements ...sented to the committee against the bill from the following: D... ...mber of Fort Peck Tribal Executive Board; Will...

...ARY COMMITTEE MEETING
...uary 11, 1963

Senate Bill No. 40 was discussed by the committee and decided that action will be passed on it at the Wednesday, February 13th, meeting.

Senate Bill No. 32 was discussed and moved by Senator Mahoney and seconded by Senator Cumming that consideration be passed.

Senator Cumming made a motion and was seconded by Senator Dussault that House Bill No. 55 be concurred in. The motion was carried by the majority with Senator Huntley being the only dissenter.

The meeting was adjourned.

Respectfully submitted,

Eugene A. Mahoney
Chairman

Patricia Dorrington

Patricia Dorrington, Secretary

Date and Repealing all Acts and Parts of Acts in Conflict.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause

Section 1. That section 84-6208, R. C. M. 1947, is amended to read as follows:

Assessor shall compute taxes on net proceeds and royalty assessments by September 15th.

"84-6208. **County assessors to compute taxes.** Immediately after the county board of equalization has fixed tax levies on the second Monday in August, the county assessor shall compute the taxes on such net proceeds and royalty assessments, and shall deliver the book to the county treasurer on or before the fifteenth day of September. The county treasurer shall proceed to give full notice thereof to such operator and to collect the same in manner provided by law."

Notice to operator.

Operator liable for payment.

The operator or producer shall be liable for the payment of said taxes and same shall be payable by and shall be collected from such operators in the same manner and under the same penalties as provided for the collection of taxes upon net proceeds of mines; provided, however, that the operator may, at his option, withhold from the proceeds of royalty interest, either in kind or in money, an estimated amount of the tax to be paid by him upon such royalty or royalty interest, after such withholding any deviation between the estimated tax and the actual tax may be accounted for by adjusting subsequent withholdings from the proceeds of royalty interests.

Operator may withhold estimated tax on royalty.

Effective years.

Section 2. The provisions of this act shall apply to the returns required to be filed in 1963 and for each year thereafter.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 26, 1963.

CHAPTER 81

An Act to Provide for the Assumption of Criminal and/or Civil Jurisdiction over the Confederated Salish and

Kootenai Indians and Their Reservation and Land as Authorized by Federal Law; Providing the Time and the Method Thereof, and the Duty of the Governor with Respect Thereto.

Be it enacted by the Legislative Assembly of the State of Montana:

State assumes criminal jurisdiction over Flathead Indian Reservation.

Section 1. The state of Montana hereby obligates and binds itself to assume, as herein provided, criminal jurisdiction over Indians and Indian territory of the Flathead Indian reservation and country within the state in accordance with the consent of the United States given by the act of August 15, 1953 (Public Law 280, 83rd Congress, 1st Session.)

Tribal resolution to governor.

Section 2. Whenever the governor of this state shall receive from the tribal council or other governing body of the Confederated Salish and Kootenai Indian tribes, community, band or group of Indians in this state, a resolution, expressing its desire that its people and lands be subject to the criminal and/or civil jurisdiction of the state of Montana to the extent authorized by federal law and regulation, he shall issue within sixty (60) days a proclamation to the effect that such jurisdiction shall apply to those Indians and their territory, or reservation in accordance with the provisions of this act; Provided, That he shall not issue such proclamation until such resolution has been approved in the manner provided for by the charter, constitution or other fundamental law of the tribe or tribes, if said document provides for such approval; provided further that he shall not issue such proclamation until there has been first obtained the consent of the board of county commissioners of each county which encompasses any portion of the reservation of such tribe or tribes.

Proclamation within 60 days.

Approval of resolution.

Consent of county commissioners.

State shall assume jurisdiction 60 days after issue of proclamation.

Section 3. Sixty (60) days from the date of issuance of the proclamation of the governor as provided for by section 2 of this act, the state of Montana shall assume jurisdiction over offenses committed by or against Indians in the lands prescribed in the proclamation to the same extent that this state has jurisdiction over offenses committed elsewhere within this state, and the criminal and/or civil laws of this state shall have the same force and effect within such lands as they have elsewhere within this state.

Rights preserved.

Section 4. Nothing in this act shall authorize the alienation, encumbrance or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band or community that is held in trust by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall confer jurisdiction upon the state of Montana to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein; or shall deprive any Indian or any Indian tribe, band or community of any right, privilege or immunity afforded under federal treaty, agreement, statute, or executive order with respect to hunting, trapping, fishing or the control, licensing or regulation thereof.

Customs and culture preserved.

Section 5. Nothing in this act shall deprive, the Indian tribe, band or community from carrying on its age-old tribal dances, feasting or customary Indian celebrations or in any way try to destroy the Indian culture.

Tribe may withdraw consent.

Section 6. Any Indian tribe, community, band or group of Indians that may consent to come within the provisions of this act may, within two (2) years from the date of the governor's proclamation, withdraw their consent to be subject to the criminal and/or civil jurisdiction of the state of Montana, by appropriate resolution, and within sixty (60) days after receipt of such resolution the governor shall issue a proclamation to that effect.

Proclamation.

Approved February 27, 1963.

CHAPTER 82

An Act Amending Section 93-901, R. C. M. 1947, Relating to the Disqualification of Judicial Officers.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 93-901, R. C. M. 1947, is amended to read as follows:

Judge may be disqualified.

"93-901. **Cases in which judge may be disqualified—calling in another judge.** Any justice, judge, or justice of the peace must not sit or act as such in any action or proceeding:

1. To which he is a party, or in which he is interested; Party or interest.

2. When he is related to either party by consanguinity or affinity within the sixth degree, computed according to the rules of law; Relation.

3. When he has been attorney or council for either party in the action or proceeding, or when he rendered or made the judgment, order, or decision appealed from; Attorney. Decision.

4. When either party makes and files an affidavit as hereinafter provided, that he has reason to believe, and does believe, he cannot have a fair and impartial hearing or trial before a district judge by reason of the bias or prejudice of such judge. Such affidavit may be made by any party to an action, motion, or proceeding, personally, or by his attorney or agent, and shall be filed with the clerk of the district court in which the same may be pending. In any judicial district having only one judge the affidavit of disqualification with reference to any action or proceeding to be tried before a jury must be filed at least one day before the day appointed or fixed by the court for setting the trial calendar; provided, however, this limitation shall not apply unless notice of such setting date shall be given to all parties by the clerk of the district court at least fifteen (15) days prior thereto. In all other cases the affidavit must be filed at least *fifteen (15)* days before the day appointed or fixed for the hearing or trial of any such action, motion, or proceeding (provided such party shall have had notice of the hearing of such action, motion, or proceeding for at least the period of *fifteen (15)* days and in case he shall not have had notice for such length of time, he shall file such affidavit immediately upon receiving such notice). Upon the filing of the affidavit, the judge as to whom said disqualification is averred shall be without authority to act further in the action, motion, or proceeding, but the provisions of this section do not apply to the arrangement of the calendar, the regulation of the order of business, the power of transferring the action or proceeding to some other court, nor to the power of calling in another district judge to sit and act in such action or proceeding, providing that no judge shall so arrange the calendar as to defeat the purposes of this section. No more than two judges can be disqualified for bias or prejudice, in said action or proceeding, at the instance of the plaintiff,

Affidavit. Bias or prejudice. District having one judge—time limitation. Affidavit filed 15 days before trial. Judge without authority to act further—exceptions. Two disqualifications each allowed plaintiff and defendant.